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SUBJECT: OCTOBER 8-9, 2008, WTO SANITARY AND PHYTOSANITARY (SPS)  
COMMITTEE MEETING

1. Summary:

The Forty-Second Meeting of the World Trade Organization (WTO) Committee on Sanitary and Phytosanitary (SPS) Measures was held October 8-9, 2008. The U.S. delegation was headed by Jane Doherty, (USTR), and included Christine Brown (Commerce), Mary Lisa Madell (APHIS), Daniella Taveau (EPA), Thomas Westcot (FAS), Ann Ryan (State), Debbie Subera-Wiggin and Camille Brewer (FDA), and Sharon McMurtrey (FSIS). On the margins of the meeting, bilateral discussions were held with Argentina, Colombia, China, the Dominican Republic, Japan, Malaysia, Indonesia, St. Lucia, and Taiwan. In addition, the delegation met with the SPS Quad (U.S., New Zealand, Australia, and Canada) and the SPS Trade Quad (U.S., EC, Japan, and Canada). Separate workshops on good practice in SPS-related technical assistance occurred October 6. Two informal meetings regarding special and differential treatment and review of the agreement were held October 7. A small working group also met to discuss private standards on the sidelines of the meeting. The following summary contains the highlights of the meeting. For more detailed information regarding the events of the meeting, please contact Jane Doherty, USTR ([jane\\_doherty@ustr.eop.gov](mailto:jane_doherty@ustr.eop.gov)). End summary.

2. The United States described the upcoming change in regulatory authority over catfish from FDA to USDA.

3. For the first time, the United States raised the issue of Taiwan's ban on the use of Ractopamine, a veterinary drug used to promote porcine growth. Taiwan responded that many WTO members prohibit Ractopamine use and that Codex has not finalized a Ractopamine standard.

4. The United States intervened again to raise concerns with the Japanese pesticide enforcement policy for those maximum residue limits (MRLs) that are higher than Japan's. Under current policy, importers are subject to 30 percent testing after one violation from the importing country, and 100 percent test and hold after two violations from the same country within a year. New Zealand and China supported the U.S. intervention. Japan suggested that the U.S. discuss cases individually at the technical level rather than the broader policy on the WTO floor.

5. The United States also rose in support of the EC intervention against India regarding their import ban on poultry and swine due to AI concerns. India firmly insisted on maintaining its policy because of fears that AI strains could mutate, and suggested that technical discussions could occur. The U.S. welcomed the suggestion. The United States said that they would be happy to schedule a meeting upon receipt of the long awaited Indian risk assessment for review beforehand.

6. China continued to raise the issues of U.S. treatment of Chinese cooked poultry and apples. The United States replied that they continue to consult with the appropriate authorities regarding the review of the Chinese application to export poultry to the United States. On China's request for market access for their apples, the United States explained that information regarding the pest risk assessment had been requested from China, and that APHIS continues to wait for the necessary technical data.

7. A small workgroup was formed to discuss private standards

consisting of the thirty members who responded to the Secretariat's July questionnaire. The Chair suggested that the working group take a flexible approach in undertaking its work and commence by collecting specific examples where private SPS-related standards have had an impact on a country's ability to export products. This idea was supported by all the small group members through consensus.

The Secretariat plans to distribute a second questionnaire to all Members of the Committee in February with responses due in June. The small workgroup will report regularly to the Committee on its progress and will determine additional steps as appropriate.

¶8. Argentina and the United States agreed to continue working to draft a paper describing a procedure for Ad Hoc Consultations. The United States stressed that the procedure should be flexible and not legally binding. Argentina emphasized the need to make the procedure formal enough to differentiate it from informal bilateral consultations. India and the EC asked Argentina and the United States if the procedure being developed would conflict with the NAMA horizontal mechanism being negotiated as part of the Doha agreement.

The United States and Argentina stated their belief that the mechanisms would not necessarily conflict. The Secretariat then stated that the horizontal mechanism was still being negotiated and the scope had not been fully agreed to by the members. The members agreed to discuss the draft at the February meeting.

¶9. China raised concerns with the new draft standard by the North American Plant Protection Organization (NAPPO) that would call for Member countries (U.S., Canada, and Mexico) to adopt new measures to protect against the Asian Gypsy Moth (AGM). China voiced its concerns that the measures, mostly regarding inspection and certification of ships and cargos, were burdensome and expensive. Japan, Korea and Indonesia supported China's intervention. The NAPPO members responded that the measures were based on science and necessary to protect against the AGM, which is highly invasive, destructive, and expensive to eradicate. The AGM is not indigenous to North America. NAPPO countries invited China and other countries to participate in an October NAPPO meeting and voice their concerns.

¶10. China informed the Committee regarding the recent melamine contamination of its milk supply. China stated that the contamination was accidental and that since September 10, 2008 increased testing and collaboration among its agencies, including 100 percent testing had been put in place in order to prevent future contamination. China noted a mandatory recall had been instituted for milk products distributed prior to September 10, 2008. China urged countries to lift their import restrictions as soon as possible based on the WHO risk assessment published on September 24, ¶2008.

¶11. Comment: In the meetings of April, June and October 2008, Members exchanged views regarding the implementation of SPS Agreement provisions regarding transparency, equivalence, and regionalization. The United States views these exchanges as positive developments as they demonstrate a growing familiarity with the provisions of the SPS Agreement and increased recognition of the value of the SPS Committee as a forum for the Members to discuss SPS-related trade issues. Many Members, including the United States, utilized these meetings to raise concerns regarding new and existing SPS measures of other Members. In 2008, the United States raised a number of concerns with measures imposed by other Members, including India's avian influenza restrictions, Japan's maximum residue limit enforcement policies, the European Union's (EU) ban on the use of pathogen reduction treatments on imported poultry meat, and Taiwan's ban on the use of the growth additive, Ractopamine, in porcine. Further, the United States, with a view to being as transparent as possible, informed the SPS Committee of various measures, both new and proposed, such as the U.S. Food and Drug Administration's proposed Food Protection Plan.